

REMARKS

Claim 11 is added, and therefore claims 6 to 11 are now pending in the present application.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 6 to 10 were rejected under 35 U.S.C. § 102 as anticipated by Recknagel, U.S. Published Patent Application No. 2002/0134607.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic. Accordingly, it is respectfully submitted that any anticipation rejection premised on the inherency doctrine is not sustainable absent the foregoing conditions.

While the rejections may not be agreed with, to facilitate matters, claim 6 has been rewritten to provide the feature in which “*the analyzer module selects and tracks at least one object in the predetermined detection range by determining an attention range as a function of at least one predetermined parameter*”.

The Recknagel reference concerns an impact detection method in which if an impact object is detected at a maximum distance of 1.5 meters and a speed exceeding a predefined threshold value, a control unit determines, based on an effective mass and a relative speed of the object, whether a critical impact is taking place (see page 2, paragraphs [0023] to [0025]).

The Recknagel reference clearly teaches that once the object is within 1.5 meters and exceeds the threshold speed, a determination is immediately made as to whether the critical impact is imminent. Absent from this determination, however, is any determination of an attention range. The Recknagel reference only refers to using the effective mass and the relative speed to determine the critical impact.

Accordingly, the Recknagel reference does not identically describe the claim 6 feature in which "*the analyzer module selects and tracks at least one object in the predetermined detection range by determining an attention range as a function of at least one predetermined parameter*", as provided for in the context of claim 6, as presented, so that claim 6 is allowable.

Claims 7 to 10 depend from claim 6 and are therefore allowable for the same reasons.

New claim 11 does not add any new matter and is supported by the present application. New claim 11 also depends from claim 6 and is therefore allowable for the same reasons.

Accordingly, as presented, claims 6 to 11 are allowable.

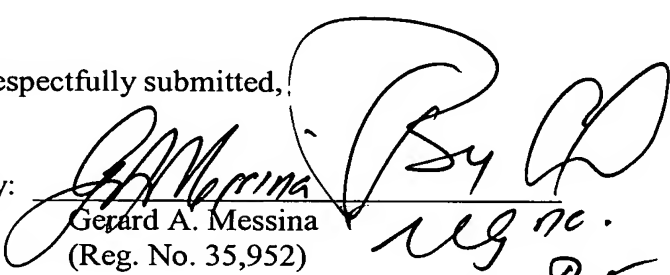
Conclusion

In view of the foregoing, it is respectfully submitted that all of presently pending claims 6 to 11 are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. All issues raised by the Examiner have been addressed, so that an early and favorable action on the merits is respectfully requested.

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Respectfully submitted,

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